



**Office of the Attorney General  
State of Texas**

**DAN MORALES**  
ATTORNEY GENERAL

November 13, 1992

Honorable Kirk Palmer  
County Attorney  
Hockley County Courthouse  
Levelland, Texas 79336

Letter Opinion No. LO-92-74

Re: Whether a member of Hockley County's Appraisal District Review Board may serve simultaneously as a member of the board of regents of South Plains College (ID# 17491)

Dear Mr. Palmer:

You have asked us to determine whether the common-law doctrine of incompatibility precludes a member of the appraisal district review board for Hockley County from simultaneously serving as a member of the board of regents of South Plains College ("SPC"), a junior college. You state that the South Plains College district consists of all of Hockley County and the Whiteface Independent School District. You set forth the following facts:

Recently, a member of the Board of Regents of SPC resigned. Subsequently, a search committee recommended the appointment of a person to fill the vacated position on the Board of Regents of SPC pursuant to Section 130.083 of the Education Code. The recommended person currently serves as a member of the Appraisal District Review Board. His term with the Appraisal District Review Board expires on December 31, 1993. His term with SPC Board of Regents expires on May 1, 1994.

The common-law doctrine of incompatibility prevents one person from holding two offices if the duties are inconsistent or in conflict; the doctrine also prevents one person from holding an office and other public employment if one is subordinate to the other. See Attorney General Opinion JM-203 (1984) at 3 [and sources cited therein]. This office previously has determined that junior college trustees or regents are officers. See *id.* at 6. Additionally, the Supreme Court of

Texas has found that the members of an appraisal district review board "must act independently in the performance of their duties and are not subject to control or supervision." *City of Bryan v. Moehlman*, 282 S.W.2d 687, 690 (Tex. 1955). We believe, therefore, that members of an appraisal review board also are officers. See *Aldine Indep. School Dist. v. Standley*, 280 S.W.2d 578, 583 (Tex. 1955) (quoting *Dunbar v. Brazoria County*, 224 S.W.2d 738, 740 (Tex. Civ. App.--Galveston 1949, writ ref'd)).

To determine the nature of the public offices in controversy here, and thereby to determine their compatibility, we must examine relevant constitutional and statutory provisions. See *State ex rel. Brennan v. Martin*, 51 S.W.2d 815, 815 (Tex. Civ. App.--San Antonio 1932, no writ). The governing board of each junior college district is required to, among other things, annually cause the taxable property in the junior college district to be assessed for *ad valorem* taxation and to have the *ad valorem* taxes collected. Educ. Code § 130.121(a). The junior college district may not assess and collect the taxes itself; rather, it must arrange to have its taxes assessed and collected by any county, city, or other governmental subdivision in which the junior college district is located, wholly or in part. *Id.* § 130.121(b).

The appraisal district review board reviews the appraisal records of the county in which it sits and resolves grievances county property owners have filed regarding the appraised value of their property. See Tax Code §§ 6.01(a), 6.41(a), 25.24, 25.25(c). Decisions of the appraisal district review board affect each taxing unit that imposes *ad valorem* taxes on property in the county by determining the appraised value of property in the taxing unit. See *id.* § 6.01(b). Accordingly, the decisions of the Hockley County Appraisal District Review Board affect the appraised value of property on which the SPC district collects *ad valorem* taxes.

In our opinion, the appraisal district review board member's ability to affect, for purposes of *ad valorem* taxation, the appraised value of property within the junior college district renders the offices of appraisal district review board member and junior college regent incompatible, if, as in the situation about which you inquire, the boundaries of each district overlap. Accordingly, we conclude that the common-law doctrine of incompatibility precludes one person from simultaneously holding both positions. We further note that when a person qualifies for and accepts a second office which is incompatible with another office the person holds, he or she is deemed to have resigned the first office. See *Thomas v. Abernathy*

*County Line Indep. School Dist.*, 290 S.W. 152, 153 (Tex. Comm'n App. 1927, judgm't adopted); Attorney General Opinion JM-203 at 10; Letter Opinion No. 92-4 (1992) at 2.

**S U M M A R Y**

The common-law doctrine of incompatibility precludes a member of the appraisal district review board of Hockley County from simultaneously holding a position as a regent of a junior college, if the junior college district overlaps with Hockley County.

Yours very truly,

A handwritten signature in black ink, reading "Kimberly K. Oltrogge". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Kimberly K. Oltrogge  
Assistant Attorney General  
Opinion Committee